

UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

FILED  
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U.S. DISTRICT COURT  
DISTRICT OF MASS

HAROLD WOODS, INDIVIDUALLY and  
HAROLD WOODS AND RICHARD WOODS,  
AS TRUSTEES OF THE TERRA REALTY TRUST  
Plaintiffs

v

THE INTERNAL REVENUE SERVICE  
OF THE UNITED STATES OF AMERICA  
Defendant

**DOCKET NUMBER**

**04-40102**

**CIVIL COMPLAINT**

**MAG**

**PARTIES**

1. The plaintiff Harold Woods is an individual who resides at 171 Lancaster Avenue, Lunenburg, MA 01462. His social security number is 016-52-6619.
2. The plaintiff Richard Woods is an individual who resides at 60 Turkey Hill Road, Lunenburg, MA 01462 and along with the Plaintiff Harold Woods is a Trustee of the Terra Realty Trust.
3. The Internal Revenue Service ("IRS") is an agency of the United States Government. Pursuant to Court decisions of the First Circuit, this suit is deemed to be a suit against the United States of America.

**JURISDICTION OF THE COURT**

4. Jurisdiction of the Court is founded on the provisions of 28 U.S.C. §2410 (a)(5), inasmuch as the United States of America, through the IRS, claims a lien on real property commonly known as The Terra Realty Trust, of which the plaintiffs are alleged and claimed to be beneficiaries.

RECEIPT # 404337  
AMOUNT \$ 150.00  
SUMMONS ISSUED ☒  
LOCAL RULE 4.1 ☐  
WAIVER FORM ☐  
MCF ISSUED ☐  
BY DPTY CLK. RM  
DATE 6/14/04

STATEMENT OF THE CASE

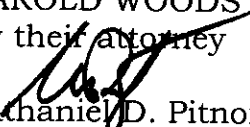
5. Harold Woods is alleged to owe a tax obligation to the United States of America.
6. While the amount of the obligation increases due to interest and penalties as time passes, the amount currently owed is in excess of \$600,000.
7. The IRS alleges that Harold Woods as well as Richard Woods are beneficiaries of the Terra Realty Trust, and therefore the Trust property is a fit property upon which to assert a lien, which the IRS has done.
8. The IRS has filed a notice of levy and recorded a federal tax lien in the Worcester County, Massachusetts, North Registry of Deeds upon all the realty that may be owned by Harold Woods.
9. Among the realty that the IRS has encumbered is the realty owned by the Terra Realty Trust, which the IRS alleges Harold Woods to have a beneficial interest in.
10. Terra Realty Trust was established on September 11, 1986 and the Trust document was filed in the Worcester North Registry of Deeds, at Book 1503 Pages 37-40.
11. Harold Woods was one of the original beneficiaries of the Trust; however, at all times relevant to the IRS claim, Harold Woods has not been a beneficiary.
12. If he were still a beneficiary, he concedes the IRS would have a legal right and claim to his interest in the Trust.
13. However, neither Harold Woods nor Richard Woods has been a beneficiary of the Trust at any time relevant to the IRS claim.
14. By the express terms, conditions and provisions of the Trust, Harold Woods' beneficial interest and Richard Woods' beneficial interest were transferred to their issue upon their birth.

15. Both Harold Woods and Richard Woods did have children who were born before December 11, 1996.
16. Therefore, pursuant to the terms of the Trust, as of December 11, 1996 – and before that date – Harold Woods and Richard Woods held no beneficial interest in the Trust.
17. The IRS claims that Harold Woods presently has a beneficial interest in the Trust.
18. The IRS buttresses its claim, in spite of the clear language of the Trust and the unequivocal fact that Harold Woods had children before December 11, 1996, upon certain documents executed by Harold Woods and Richard Woods and the other Trustees of the Terra Realty Trust in their dealings with the Commerce Bank & Trust, Worcester, MA on December 11, 1996.
19. On or about December 11, 1996 the Terra Realty Trust applied to borrow money from Commerce Bank & Trust.
20. The closing of the loan occurred on December 11, 1996.
21. As part of the closing, the Bank's attorney, Pamela Massad, Esq., prepared documents that she felt were necessary to protect the Bank's interest.
22. Among the documents the Bank's attorney prepared were an "Amendment to the Declaration of Trust" that was executed by the Trustees, including Harold Woods and Richard Woods, and was recorded in the Worcester North Registry of Deeds, in Book 2947 Pages 59-60.
23. The other document pertinent to this complaint was a "Certificate of Appointment of Trustees of the Terra Realty Trust" which was prepared by the Bank's attorney and recorded in the Worcester North Registry of Deeds, in Book 2947 Page 61.

24. In the "Amendment", the Bank attorney refers to Harold Woods and Richard Woods and the other Trustees as 'beneficiaries'.
25. In fact, all of the signatories to the "Amendment" were Trustees and, according to the terms of the Trust, were not beneficiaries.
26. Neither Harold Woods nor Richard Woods nor any of the other signatories – all of whom were the Trustees but none of whom were beneficiaries – recognized or realized the mistake that the Bank's attorney had inadvertently grafted into the document.
27. Since that time, the Bank's attorney has stated under oath both in a deposition and by executing an affidavit pursuant to Massachusetts General Laws Chapter 183 § 5b that the "Amendment" was prepared by her staff and she did not check to verify the accuracy of what was contained in the document. Further, she has since verified that neither Harold Woods nor Richard Woods nor the other Trustees who signed the "Amendment" were beneficiaries.
28. In spite of this unequivocal statement that the documents were in error, the IRS continues to rely on them to make claim to the Terra Realty Trust as property in which Harold Woods and Richard Woods and other Trustees hold a beneficial interest.
29. Harold Woods and Richard Woods seek a determination by the Court that the IRS claim to any interest in Terra Realty Trust as a result of their and all other trustees having signed the above-referenced December 11, 1996 documents is unsupported in fact and law.

WHEREFORE Harold Woods seeks individually and he and Richard Woods seek on behalf of the Terra Realty Trust that the Court determine and declare that the IRS has no cognizable claim to any interest to the Terra Realty Trust because neither Harold Woods individually nor he and Richard Woods as Trustees on behalf of the Terra Realty Trust have no beneficial interest in the Terra Realty Trust.

HAROLD WOODS and RICHARD WOODS  
By their attorney



Nathaniel D. Pitnof  
BBO # 400660  
250 Commercial Street, 420  
Worcester, MA 01608  
508-757-3000

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

HAROLD WOODS, INDIVIDUALLY and  
HAROLD WOODS and RICHARD WOODS,  
TRUSTEES OF TERRA REALTY TRUST

## DEFENDANTS

I. R. S.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF: Worcester  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER):

NATHANIEL PITNOF  
250 COMMERCIAL ST  
WORCESTER, MA 01608

508-757-3001

ATTORNEYS OF DEFENDANT:

04-40102

## II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☒ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury -- Med. Malpractice <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (92%) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS -- Third Party 26 USC 7609

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 USC § 2410 (a)(5) Declaratory judgment

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$

CHECK YES only if demanded in complaint.

JURY DEMAND: ☐ YES ☒ NO

## VIII. RELATED CASE(S) IF ANY

JUDGE

DOCKET NUMBER

DATE

6-4-04

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPEARING OFFER \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) HAROLD WOODS v IRS
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- \_\_\_ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- X II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- \_\_\_ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- \_\_\_ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- \_\_\_ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
- NONE
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
- YES ☒ NO ☐
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
- YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
- YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
- YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
- YES ☒ NO ☐
- A. If yes, in which division do all of the non-governmental parties reside?
- Eastern Division ☐ Central Division ☒ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
- Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
- YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME NATHANIEL D. PITNOFADDRESS 250 COMMERCIAL STREET, WORCESTER, MA 01609TELEPHONE NO. 508-757-3000